as to tort jurisdiction would, like that as to contracts, follow the ancient Continental test of the nature of the act, except in the single instance of injuries to things on shore by ships. This exception could then be removed by statute as was done in England.[21]

RECENT CASES.

ADMIRALTY — JURISDICTION: TORTS — MARITIME NATURE. — A contracting stevedore's employee was injured on a vessel by the negligence of the stevedore in failing to supply a safe place to work. *Held*, that this tort is within admiralty jurisdiction. *Imbrovek* v. *Hamburg-American Steam Packet Co.*, 190 Fed. 229 (Dist. Ct., D. Md.) See NOTES, p. 381.

BANKRUPTCY — RIGHTS AND DUTIES OF BANKRUPT — PERJURY IN EXAMINATION. — The Bankruptcy Act, § 7*a* (9), provides that "the bankrupt shall . . . submit to an examination . . . ; but no testimony given by him shall be offered in evidence against him in any criminal proceeding." *Held*, that this provision does not bar a prosecution of the bankrupt for perjury committed in his examination. *Glickstein* v. *United States* (U. S. Sup. Ct., Dec. 4, 1911).

This case settles the law upon a clause as to which there had been a conflict in the authorities. Some cases had held that it applied to perjury, as the language covered all criminal proceedings, and to supply a reservation in the case of perjury similar to that in other federal statutes compelling testimony would amount to judicial legislation. U. S. REV. STAT., 1878, § 860; 27 U. S. STAT. AT LARGE, p. 443, c. 83; *United States* v. *Simon*, 146 Fed. 89. See *In re Logan*, 102 Fed. 876. Others had decided that it did not apply, since that construction would, by removing the penalty for perjury, defeat the obvious intent of Congress to secure truthful testimony. *Edelstein* v. *United States*, 149 Fed. 636; *Wechsler* v. *United States*, 158 Fed. 579. The principal case has wisely adopted this latter view. See 20 HARV. L. REV. 571.

BILLS AND NOTES — DEFENSES — MISREPRESENTATION. — The making of a promissory note was induced by misrepresentations of the payee's agent, which were not intentionally false. *Held*, that the maker has a defense against the payee. *McNeill* v. *Bay Springs Bank*, 56 So. 333 (Miss.).

It is generally held that a contract induced by innocent misrepresentations may be rescinded in equity. *Redgrave* v. *Hurd*, 20 Ch. D. 1; *Wilcox* v. *Iowa Wesleyan University*, 32 Ia. 367. But see *Southern Development Co.* v. *Silva*, 125 U. S. 247. By the weight of authority this does not constitute a defense at law. *Kennedy* v. *Panama, etc. Mail Co.*, L. R. 2 Q. B. 580; *King* v. *Eagle Mills*, 10 All. (Mass.) 548. *Contra*, *Kirschbaum* v. *Jasspon*, 123 Mich. 314, 82 N. W. 69. A distinction should be made between the cases where the misrepresentations are relied on to found an action of tort for damages, and where as in the principal case they are used to avoid a contract. In the former cases it is sought to impose a liability for making innocent misrepresentations. In the latter, it is sought to prevent the person making these misrepresentations from reaping any benefit from them. In the latter cases, on principle, relief should be allowed

---

the principal case and the Ninth Circuit case as to whether the tort of a contracting stevedore is maritime. But the paramount advantages of this test are shown in 18 HARV. L. REV. 299.

[21] ADMIRALTY COURT ACT, 1861, (24 & 25 VICT. c. 3), § 7.

either in equity or at law on the ground that it is not fair that a person should profit from his own misrepresentations. The doctrine of the principal case would seem to be a desirable one.

CONFLICT OF LAWS — JURISDICTION FOR DIVORCE — INDIAN DIVORCE. — A white man married and then abandoned his white wife, the plaintiff, in Illinois. He went to live among the Pottawatomie Tribe of Indians in Indian Territory, by whom he had formerly been adopted. He acquired land there and died. By the tribal law the marriage status of members of the tribe might be terminated at will and abandonment operated as a divorce. The plaintiff, claiming as his widow, sought an interest in his real estate. *Held*, that the Indian divorce is valid. *Cyr* v. *Walker*, 116 Pac. 931 (Okl.). See NOTES, p. 374.

CONFLICT OF LAWS — RECOGNITION OF FOREIGN JUDGMENTS — EFFECT OF REVERSAL OF JUDGMENT GIVEN EFFECT IN ANOTHER STATE. — A. and B. claimed the right of custody of a child. A decree of an Illinois court awarded the custody to A. Subsequently in *habeas corpus* proceedings brought by B. in Kansas, the court held that the Illinois decree was controlling. Afterwards, the appellate court in Illinois reversed the judgment of the lower court. *Held*, that the judgment of the Illinois appellate court is not admissible, in a prosecution in Kansas for kidnapping, to prove that A. did not have lawful custody of the child. *State* v. *Tillotson*, 117 Pac. 1030 (Kan.).

The pendency of an appeal from a final judgment does not prevent that judgment from being successfully pleaded as *res judicata*. *Parkhurst* v. *Berdell*, 110 N. Y. 386, 18 N. E. 123. Does the subsequent reversal of the judgment on appeal affect the rights of the parties? That depends, it is submitted, on the basis of the rights claimed. If, in the principal case, the Kansas court merely dismissed the proceedings before it, the basis of A.'s right was the Illinois decree, and the reversal took away that right. But if, as it was held, the Kansas court made an affirmative decree, the decree established a new right. Subsequent reversal of the Illinois decree could affect this right only as a later determination of the right to custody. The Illinois court was one of competent jurisdiction and its decree entitled to full faith and credit. *Bleakley* v. *Barclay*, 75 Kan. 462, 89 Pac. 906. However, as the judgment of reversal only purported to declare the right to custody at the time when the suit began, it did not involve a later determination of that right; consequently it was rightly held inadmissible. It might, however, have been ground on which to base a new suit. *Cf. White* v. *Atchison, etc. Ry. Co.*, 74 Kan. 778, 88 Pac. 54.

CONFLICT OF LAWS — RECOGNITION OF FOREIGN PENAL LAWS — SUIT TO COLLECT A FOREIGN TAX. — The state of Maryland and the city of Baltimore sued the defendant in New York for the amount of taxes assessed against his personalty while he was a resident of Baltimore. Maryland courts consider that a tax raises a contractual liability while New York courts do not. *Held*, that the plaintiffs cannot recover. *State of Maryland* v. *Turner*, 46 N. Y. L. J. 935 (N. Y., Sup. Ct.).

It is an elementary principle that one country will not enforce the penal laws of another country. See 1 WHARTON, CONFLICT OF LAWS, 3 ed., §§ 4, 4 b. This principle probably applies with equal force to revenue laws. See *Wisconsin* v. *Pelican Ins. Co.*, 127 U. S. 265, 290, 8 Sup. Ct. 1370, 1374. At all events a special assessment for improvements on real property is in the nature of a penalty and is not recoverable abroad. *Municipal Council of Sydney* v. *Bull*, [1909] 1 K. B. 7. Whether the law which is presented for enforcement is penal or not is a question for the consideration of the court whose aid is invoked. *Huntington* v. *Attrill*, [1893] A. C. 150. Even if the obligation has been reduced